

**STATE OF ALASKA
LOCAL BOUNDARY COMMISSION**

RESOLUTION NO. 2013-01

**A RESOLUTION URGING
FULL STATE FUNDING OF BASIC NEED FOR ALL SCHOOL DISTRICTS**

RECITALS

- A. **WHEREAS**, the framers of Alaska's Constitution intended for the State legislature to establish inducements for borough formation (see, *Borough Government in Alaska*, Thomas A. Morehouse and Victor Fischer, pp. 61-62); and
- B. **WHEREAS**, rather than inducements, the State of Alaska created significant disincentives for borough formation, as reflected in the following excerpts of the difficult and disappointing history concerning the formation of boroughs from 1959 – 1964 that, today, encompass 85 percent of Alaskans:

The task of defining borough government begun by the Constitutional Convention had been carried very little distance forward by 1961, when the state legislature passed the borough organic act. . . .

. . . the type of borough promoted by state agencies seemed to mean little more than that new taxes would be imposed and governmental controls extended.

. . . viewed from the local level, it appeared that the financial burden of government was being displaced from federal to state to local levels, without any increase in the means of support. The state at this time was in no position to provide significant financial support for local government.

Continuing local opposition to state proposals prompted the legislature to attempt to close off controversy over at least the incorporation issue with the Mandatory Borough Act of 1963. In fact, however, this action immediately set off a number of attempts to repeal the law: requests were made for a special session of the legislature during the last months of 1963; bills to repeal the 1963 act were introduced in the 1964 session; and a referendum petition was initiated. The legislative efforts failed, and the state Supreme Court in 1964 disallowed the proposed referendum on the grounds that the 1963 act was "local and special" legislation. This, of course, was merely a legal and not a political victory for borough government. (Ibid., pp. 81-83)

- C. **WHEREAS**, it has long been recognized that the requirement for boroughs to pay a significant share of Basic Need for education in the form of the local contribution to Basic Need required by AS 14.17.410(b)(2) has caused stagnation in the voluntary incorporation of borough government as is reflected in the following excerpt from a study written nearly four decades ago:

Even at the sacrifice of some autonomy, voters of an REAA might reason that forming a municipality would be too costly relative to the REAA system. The foundation program simply is not as generous in its funding as is the method for financing REAA schools. Until there is provision for full funding of basic need under the foundation program, and until there is assurance that the formula for "basic need" accurately reflects operating costs in the widely disparate areas of the state, formation of municipalities in the unorganized borough, with its frail tax base, will stagnate.

To remove the financial deterrents to the municipal form, the state must move toward full financing of educational needs in district schools through the equalizing medium of a revamped foundation program. Meager local tax bases then can be used to finance non-education costs of municipalities. The foundation formula should allow state aid to abate to some extent for wealthier municipalities. Nothing would prevent them from using their wealth to provide optional and enhancing educational services also.

David H. Getches, *Law and Alaska Native Education* (September 1977)

- D. **WHEREAS**, the shortcomings regarding State policy relating to borough formation during the first two decades of statehood must be judged kindly in the context of the State's limited fiscal capacity at the time; and
- E. **WHEREAS**, today, the shortcomings regarding State policy relating to borough formation must also be judged in the context of the State's current fiscal capacity, noting, for example, that fueled by revenue from Prudhoe Bay, the State eliminated required local effort and increased State aid to 100 percent of basic need for a time during the 1980s; that in November 2010, the Department of Revenue announced that, "The state is in the strongest financial position in its history, and has a stable outlook with tremendous opportunities; and that in January 2012, the Department of Revenue announced a further upgrading of its bond rating noting that such "reflects the state's practice of maintaining exceptionally large reserves, extensive fiscal flexibility, and despite its deep financial resources, budgetary restraint;" and
- F. **WHEREAS**, the Local Boundary Commission, which has a duty under AS 44.33.812(a)(1) to "make studies of local government boundary problems," has formally concluded previously that the most pressing "local government boundary problem" facing Alaska was lack of a strong State policy promoting the extension of borough government (Local Boundary Commission, *The Need to Reform State Laws Concerning Borough Incorporation*, January 2001); and
- G. **WHEREAS**, the Local Boundary Commission has, for decades, urged the Legislature to eliminate disincentives for borough formation (see, for example, the 2005 report of the Commission to the Legislature); and
- H. **WHEREAS**, the Local Boundary Commission considers the local contribution required of boroughs by AS 14.17.410(b)(2), which has a crushing fiscal impact upon borough governments, to be the single greatest impediment to voluntary borough formation; and

- I. **WHEREAS**, a solemn trust exists between the State of Alaska and all Alaskans – in particular the 85 percent of the citizens of the State of Alaska living in the eight boroughs formed under the Mandatory Borough Act – in that the State promised that they would not be penalized by borough formation; and
- J. **WHEREAS**, the Local Boundary Commission views the required local contribution is a *de facto* State tax, unlawfully dedicated; and
- K. **WHEREAS**, the Local Boundary Commission considers the required local contribution for schools to result in unequal treatment of classes (those who live in municipal school districts vis-à-vis those living in regional educational attendance areas); and
- L. **WHEREAS**, the required local contribution impairs local self-government.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE LOCAL BOUNDARY COMMISSION as follows:

Section 1. The Local Boundary Commission urges the Alaska State Legislature to repeal the local contribution required by AS 14.17.410(b)(2) for boroughs and city governments that operate school districts.

Section 2. A copy of this resolution shall be provided to the following:

- a) The Honorable Sean Parnell, Governor;
- b) The Honorable Charlie Huggins, Senate President;
- c) The Honorable John Coghill, Senate Majority Leader;
- d) The Honorable Kevin Meyer, Senate Finance Committee Co-Chair;
- e) The Honorable Pete Kelly, Senate Finance Committee Co-Chair;
- f) The Honorable Gary Stevens, Senate Education Committee Chair;
- g) The Honorable Mike Dunleavy, Senate Education Committee Vice-Chair;
- h) The Honorable Mike Chenault, House Speaker;
- i) The Honorable Lance Pruitt, House Majority Leader;
- j) The Honorable Bill Stoltze, House Finance Committee Co-Chair;
- k) The Honorable Alan Austerman, House Finance Committee Co-Chair;
- l) The Honorable Lynn Gattis, House Education Committee Chair;
- m) The other 34 borough and city governments that operate school districts; and
- n) The Honorable Mike Hanley, Commissioner, Alaska Department of Education and Early Development.

Section 3. This Resolution shall be effective immediately.

ADOPTED this ____ day of _____, 2013.

Local Boundary Commission
By: Lynn Chrystal, Chair